

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

UNITED STATES OF AMERICA

VS.

CASE NO: 5:11-cr-17-Oc-28PRL

**ENRIQUE BORJA-
ANTUNES**

ORDER

Before the Court is Defendant's latest Motion "to Alter or Amend Judgment." (Doc. 96). The Court construes this latest motion as a motion for reconsideration of the Court's May 29, 2020 Order (Doc. 94). The Government filed a response opposing the motion (Doc. 99), and Defendant filed a reply. (Doc. 100).

Defendant's motion is based on his assertion that because hearsay was considered by the Court at his sentencing, his sentence should be altered. Defendant is asserting that he has never raised this issue. That assertion is erroneous. Defendant raised this issue on appeal (Doc. 76), in a motion to vacate judgment under 28 U.S.C. § 2255 (Docs. 78, 81), in an earlier filed motion (Doc. 85), and an earlier motion for reconsideration (Doc. 91).

As stated in the Court's May 29, 2020 Order:

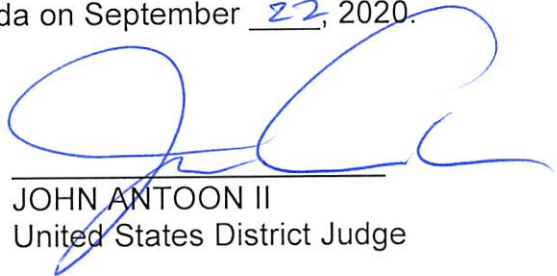
Defendant argues he has never challenged the Court hearing hearsay evidence at his sentencing and thus, pursuant to 1101(d)(3), this issue has not been decided. The hearsay of which he complains however, was considered in whether the Government met its burden under 21 U.S.C. § 851. The issue of whether the Government met its burden under 21 U.S.C. § 851 has been decided. It was decided at sentencing, affirmed on appeal, and addressed in Defendant's 2255 proceedings. Moreover, Defendant's attorney acknowledged at sentencing that Federal Rule of

Evidence 1101(d)(3) was not applicable to sentencing proceedings. (Doc. 62 at 10, l.12-14).

(Doc. 94). Defendant offers no intervening change in controlling law, no new evidence, and makes no showing of clear error or manifest injustice.

Defendant's Motion for Reconsideration (Doc. 96) is **DENIED**. The Court will not entertain further motions on this same issue. Any future motions filed by Defendant raising this same issue will be summarily denied.

DONE and **ORDERED** in Orlando, Florida on September 22, 2020.



JOHN ANTOON II
United States District Judge

Copies furnished to:
United States Attorney
United States Probation Office
Enrique Borja-Antunes